

INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Subsections 3375.2 and 3377.1 of the California Code of Regulations (CCR), Title 15, Division 3, concerning inmate custody designations. The primary objective of this amendment is to ensure the safety of inmates, correctional personnel, and the general public. The purpose for affixing the “R” suffix to an inmate’s custody designation is to assist staff in identifying inmates with a history of specific sex offenses and to limit the inmate’s opportunity to escape or to re-offend while in custody.

The sex offenses which require an “R” suffix designation have not been updated since 1987. Amendments to the regulations are proposed to standardize the application of the “R” suffix custody designation with Penal Code (PC) Section 290, Sex Offender – Registration Requirement. This amendment will correlate the Department’s regulations for applying an “R” suffix to an inmate’s custody, to the PC requirement that sex offenders guilty of specific offenses must register as a sex offender for life.

Current regulatory language allows some sex offenders with court-imposed PC Section 290 registration requirements to be housed in a minimum custody setting and to be placed in work assignments that puts him/her in direct contact with the public. Additionally, current regulatory language is ambiguous and leaves too much open to interpretation. As such, it is driving unnecessary classification actions for Institutional Classification Committees and the Departmental Review Board.

New language provides guidelines when an “R” suffix should be applied during Reception Center processing; establishes and clarifies the process to complete an “R” suffix evaluation; and clarifies the responsibilities of the different classification committees as it pertains to affixing an “R” suffix. Additionally, new language has been added to provide for inmates who have been found guilty in a disciplinary hearing of a Division A-1, A-2, or B offense that is equivalent to a PC Section 290 offense shall have an “R” Suffix evaluation.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department’s initial determination.

The Department has determined that this action imposes no mandates on local agencies of school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The CDCR must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

Subsection 3375.2(a) through 3375.2(a)(1) remain unchanged.

Subsection 3375.2(a)(2) is amended to bring the regulations into compliance with both the newly revised “R” Suffix regulations, and the Inmate Classification Score System regulations that give an inmate that has been assigned an “R” Suffix a mandatory minimum score of 19 classification points.

Subsections 3377.1(a) through (a)(9)(C) remain unchanged.

Subsections 3377.1(b) through (b)(1)(D) are amended to clarify that any inmate who has a history of specific sex offenses, as detailed in PC Section 290, shall have an “R” suffix affixed to his/her custody designation to ensure the general safety. Additionally, the “R” suffix shall be affixed during reception center processing if one of several criteria apply: the inmate is required to register per PC Section 290; the inmate’s parole was revoked or they sustained an adjudication of an offense that is equivalent to an offense listed in PC Section 290; the inmate had a valid “R” suffix evaluation as defined later in this subsection resulting in the “R” suffix being affixed.

Subsections 3377.1(b)(1)(E) through (b)(1)(K) are deleted as the type and number of sexual offenses detailed in PC Section 290 for which an “R” Suffix would be affixed by a classification committee has been enumerated and therefore, need not be specifically repeated in this regulation.

Subsection 3377.1(b)(2) is amended to specify that not all “R” suffix evaluations were conducted in accordance with the former Subsection 3377.1(b)(2). Therefore, if an inmate does not currently meet the criteria for automatic application of the “R” suffix pursuant to Subsections 3377.1(b)(1)(A) through (b)(1)(D), the “R” suffix shall not be applied and the receiving institution shall complete a re-evaluation.

Subsection (b)(3) is amended to clarify that the Department will complete an “R” suffix evaluation within six months of an inmate’s reception. As it is not always possible to receive the required documentation within that six months, the “R” suffix evaluation may need to be completed at a later time during incarceration. Also, classification committees shall consider the arrest reports and district attorney’s comments related to each arrest when completing an “R” suffix evaluation.

Subsection 3377.1(b)(3)(A) is newly adopted to establish that guilty findings of division A-1, A-2, or B offenses that are equivalent to an offense listed in PC Section 290 are required to have an “R” suffix evaluation by a classification committee.

Subsection 3377.1(b)(4) is amended to specify that an “R” suffix can be applied at any institution if it is determined the inmate meets one of the criteria set forth in Subsection 3377.1(b)(1).

Subsection 3377.1(b)(5) is amended to clarify what reports are needed in the “R” suffix evaluation process and the documentation required as to the efforts taken to obtain such documentation.

Subsections 3377.1(b)(5)(A) through (b)(5)(B) are newly adopted to stipulate that an “R” suffix cannot be affixed if the requisite documentation is unavailable. Also, it allows the classification committee to utilize the District Attorney’s comments, Probation Officer’s Report, Minute Order, or any other official document when the arrest report is unavailable. If none of the relevant documents are available, the classification committee may file for Departmental Review Board approval if it has some indication that an “R” suffix is appropriate.

Subsections 3377.1(b)(6) through 3371.1(b)(13)(B) are newly adopted to provide detail to such items as to when an “R” suffix may be removed, when or why to refer a case to a higher level committee, when not to apply an “R” suffix, where inmates may be housed if they have an “R” suffix designation, what a Certificate of Rehabilitation can accomplish, housing eligibility when an “R” suffix is removed, and several miscellaneous definitions.

Subsection 3377.1(c) remains unchanged.